

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SRI INTERNATIONAL, INC., a)	
California Corporation,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 04-1199 (SLR)
)	
INTERNET SECURITY SYSTEMS, INC.,)	
a Delaware Corporation, INTERNET)	
SECURITY SYSTEMS, INC., a Georgia)	
Corporation, and SYMANTEC)	
CORPORATION, a Delaware Corporation,)	
)	
Defendants and)	
Counterclaim-Plaintiffs.)	

**DECLARATION OF RYAN J. STEMPIEWICZ IN SUPPORT OF ISS'S
REPLY BRIEF IN SUPPORT OF ITS MOTION TO PRECLUDE
SRI, BASED ON SRI'S CONDUCT IN DISCOVERY, FROM
DISPUTING THE EVIDENCE ESTABLISHING THAT
THE LIVE TRAFFIC PAPER IS A 102(b) INVALIDATING REFERENCE**

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Dated: July 24, 2006

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SRI INTERNATIONAL, INC., a
California Corporation,

Plaintiff,

v.

INTERNET SECURITY SYSTEMS, INC.,
a Delaware Corporation, INTERNET
SECURITY SYSTEMS, INC., a Georgia
Corporation, and SYMANTEC
CORPORATION, a Delaware Corporation,

Defendants and
Counterclaim-Plaintiffs.

DECLARATION OF RYAN J. STEMPNIEWICZ

I, Ryan J. Stempniewicz, hereby declare as follows:

1. I am an associate with King & Spalding LLP and I make this Declaration in support of “ISS’s Reply Brief In Support Of ISS’ Motion To Preclude SRI, Based On SRI’s Conduct During Discovery, From Disputing Evidence Establishing That The Live Traffic Paper Is An Invalidating 102(b) Invalidating Reference” and would and could competently testify to the matters set forth below if called upon to do so.

2. I have attempted to located versions of the *Live Traffic* paper through the use of the Wayback Machine available to the public by the Internet Archive. (Attached as Ex. A and available at <http://www.archive.org/index.php>).

3. In none of the SRI webpages archived by the Internet Archive was I able to locate a webpage containing a link to the *Live Traffic* Abstract as attached Exhibit A to

the Compton Declaration in support of SRI's Reply regarding Live Traffic. (D.I. 373).

The following details the searches performed in this regard:

4. When the Internet Archive is searched for instances of SRI's homepage <http://www.csl.sri.com>, it returns a dated chart of the times the website has been captured by Internet Archive's spidering and storing technology. A spider is a program that automatically fetches webpages. Spiders are software that "crawl" the web by traversing available websites and links. Another term for this type of program is webcrawler. The Internet Archive stores data captured by the spiders on a particular date to create snapshots of the particular website as of that date.

5. For <http://www.csl.sri.com>, Internet Archive shows that during the time period surrounding November 9, 1997, the 102(b) date for the patents-in-suit, SRI's site was spidered on July 5, 1997, December 11, 1997 and January 23, 1998. (Attached as Ex. B and available at http://web.archive.org/web/*/http://www.csl.sri.com).

6. When any of the three dated links is clicked, the browser is led to the top level domain of the SRI website as captured on that date. The pages are attached as Exhibit C. For all three dates, that page contains a link entitled "Intrusion Detection" that leads to a page located at www.csl.sri.com/intrusion.html.

7. An Internet Archive search of www.csl.sri.com/intrusion.html shows that the URL www.csl.sri.com/intrusion.html was spidered on July 5, 1997 and January 24, 1998 creating links for both dates. (The chart is attached as Ex. D and available at http://web.archive.org/web/*/www.csl.sri.com/intrusion.html).

8. For both archived dates, the webpage www.csl.sri.com/intrusion.html contains a link entitled "Emerald Page". The pages from www.csl.sri.com/intrusion.html are attached as Ex. E.

9. Clicking the Emerald Page link, in both dated versions, leads the browser to a webpage available during the relevant time period at www.csl.sri.com/emerald/index.html. An Internet Archive search of www.csl.sri.com/emerald/index.html shows that the URL was spidered on July 5, 1997 and January 24, 1998. (Attached as Ex. F and available at http://web.archive.org/web/*/www.csl.sri.com/emerald/index.html).

10. Within www.csl.sri.com/emerald/index.html, in both versions, there is a link entitled "Reports & Software". These webpages are attached as Exhibit G. This URL directs the browser to page available at www.csl.sri.com/emerald/downloads.html.

11. An Internet Archive search of www.csl.sri.com/emerald/downloads.html shows that the URL was spidered two times during the relevant time period, once on January 24, 1998 and again on December 3, 1998. (Attached as Ex. H and available at http://web.archive.org/web/*/www.csl.sri.com/emerald/downloads.html).

12. The January 24, 1998 version of www.csl.sri.com/emerald/downloads.html displays two links to the *Live Traffic* paper - one for the HTML version and one for the postscript version. (Attached as Ex. I and available at <http://web.archive.org/web/19980124000015/www.csl.sri.com/emerald/downloads.html>).

13. Following the link for the HTML version leads the browser to the full *Live Traffic* paper available on the Internet, which is attached as Exhibit J. Per the Internet

Archive URL dating system, this HTML version of the full Live Traffic paper was archived on January 24, 1998 as indicated in bold in the following URL:

<http://web.archive.org/web/19980124000949/www.csl.sri.com/emerald/live-traffic.html>.

14. Attempting to follow the postscript link leads the browser to a broken link, attached as Ex. K, stating the page is not in the archive.

15. I have been unable to locate a link in any of the aforementioned URLs that would take me to the Abstract cited by SRI.

16. Internet Archive offers a feature entitled Advanced Search. (Attached as Ex. L and available at <http://web.archive.org/collections/web/advanced.html>). Upon reading "SRI's Opposition To ISS's Motion To Preclude SRI, Based On Its Conduct In Discovery, From Disputing The Evidence Establishing That The Live Traffic Paper Is A 102(b) Invalidating Reference," I attempted to use this feature to try and locate the Abstract.

17. Within this webpage are instructions for using wildcard searches for specific years. Searching for webpages in the 1997 timeframe that are stored within the Emerald portion of SRI's website, www.csl.sri.com/emerald, returns only one result that is dated July 5, 1997. (Attached as Ex. M and available at http://web.archive.org/1997*/www.csl.sri.com/emerald*). This result is the July 5, 1997 Internet Archive capture in Ex. G.

18. Searching the same directory with the same URL for the year 1998 returns 45 hits. (Attached as Ex. N and available at http://web.archive.org/1998*/www.csl.sri.com/emerald*). The last hit in this list, is a link to the Abstract.

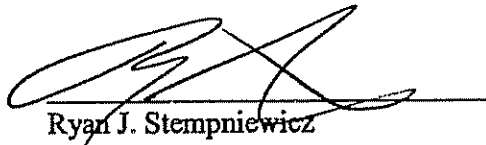
19. While this page is stored by Internet Archive, I have found no other way to locate this page or any SRI webpage that links to it. As per the Internet Archive URL dating system, the bolded portion of the following address shows that the page was archived on January 24, 1998:

<http://web.archive.org/web/19980124003236/www.csl.sri.com/emerald/traffic-short.html>

(Attached as Ex. O).

20. I have not found a 1997 link to the *Live Traffic* Abstract within Internet Archive.

EXECUTED this 24th day of July, 2006 in New York, New York.



Ryan J. Stempniewicz

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on July 24, 2006, the foregoing document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

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I hereby certify that on July 24, 2006, I have Electronically Mailed the attached document to the following non-registered participants:

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